IN THE HIGH COURT OF JUDICATURE AT PATNA
Cr.Misc. No.46316 of 2006
CHANDRA MOHAN RAI SAXENA & ORS
Versus
STATE OF BIHAR & ANR
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6. 14.8.2008. Heard Sri Ram Balak Mahto, Senior Advocate, the learned counsel for the petitioners and Sri Jharkhandi Upadhayay, the learned A.P.P. for the State. Although notice was validly issued and served on O.P. No.2, he has not cared to appear to contest this application.

The petitioners who have been made to figure as accused in Complaint Case No.2140 of 2001, have prayed for the quashing of order dated 10.3.2005 passed therein by the learned Sub Divisional Judicial Magistrate, Patna, whereby he has taken cognizance against the petitioners for commission of offences under Sections 420 and 120-B I.P.C.

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The complainant, one Dr. Surjit Singh, a Lecturer in the Department of Political Science in Sri Guru Govind Singh College, Patna City, a college established by the Sikh Community, impleaded herein as O.P. No.2, filed the aforesaid complaint inter alia alleging that the accused persons who are employees of the said college in different capacity in their respective departments in execution of a conspiracy and in connivance with each other had taken out a sum of Rs.20,000/- from the college fund in lieu of giving advance to the Union of Bihar State Universities Teachers and Non Teaching Employees for contesting the cases of illegal staff before the Supreme Court vide Cheque No.332764 dated 22.9.2001 of Punjab and Sindh Bank.

It has been submitted on behalf of the petitioners that the complainant is a habitual litigant and is continuously filing complaints and cases against not only the college staff, teaching staff but also the non-teaching staff and the instant case was the fourth in the series by suppressing material facts regarding the filing of the three earlier cases.

So far as the merit of the instant case is concerned, the learned counsel for the petitioners has submitted that the cheque which the complainant alleges to have been misused was never issued from any bank account of the College in question which would be apparent from the fact that on a letter being sent by the Principal of the College, the Manager of Punjab and Sindh Bank, Haziganj, Patna City, issued a certificate stating therein that the cheque book bearing leaf no.332764 had not been issued to any of the accounts of the said College. The copy of the certificate issued by the bank has been appended as Annexure-4A to this application. On this premise, it has been submitted that no case as alleged by the complainant has been made out against any of the petitioners.

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The learned counsel also tried to point out the mischievous conduct of the complainant by referring to several paragraphs of the instant application but these apparently are not relevant for the decision of this case.

Since the very fact constituting the allegations made by the complainant has been rendered a falsehood by the letter issued by the bank which is Annexure-4A, taking of cognizance by the learned

court below appears to be an abuse of the process of the court more so when several material facts have been suppressed by the complainant who has not come with clean hands and is required to be quashed.

Accordingly, this application is allowed and the impugned order taking cognizance is hereby quashed.

(Abhijit Sinha,J)

P.S.

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